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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3466/2024 & CRL.M.As. 33329-30/2024**

SHRI SATISH KAPUR & ORS.

.....Petitioners

Through: Mr. Sandeep Kumar, Advocate

versus

THE STATE, GOVT. OF NCT OF DELHI & ANR.Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC for
State with SI Mohit DIU/OND
Mr. Dilop Singh, Advocate for R-2

Date of Decision: 24th January, 2025

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present petition has been filed seeking quashing of the FIR No. 742/2023 registered at Police Station (P.S.) Shahbad Dairy (now investigated by D.I.U., Outer North District, Delhi), under Sections 420/120-B/34 of Indian Penal Code, 1860 ('IPC') against all the Petitioners and all proceedings emanating therefrom.

2. It is the case of the Complainant/Respondent No. 2 in the F.I.R. that Petitioner No. 1 was allotted a plot bearing no. 35, Block C, Pocket-1, Sector 36, Rohini, Delhi-110085 under Rohini Residential Scheme of Delhi Development Authority ('DDA') [hereinafter referred as 'Plot No. 35, Rohini']. Since, Petitioner Nos. 1 and 2 were resident of Ahmedabad, they approached a local property dealer i.e., Petitioner No. 3 as well as another



property dealer one Sh. Chiranjeev Sharma to deal on their behalf for the sale of the above Plot No. 35, Rohini.

3. It is the case of the Complainant/Respondent No. 2 that Sh. Chiranjeev Sharma negotiated the sale of Plot No. 35, Rohini and an Agreement to Sell dated 12.12.2019 ('ATS dated 12.12.2019') was executed between the parties for a total sale consideration of Rs. 42,05,000.

4. It is stated that a sum of Rs. 1 lakh was paid in cash towards the token amount and Rs. 19 lakhs was paid by RTGS on 20.12.2019 into the joint account of Petitioner Nos. 1 and 2. It is stated that in this manner, a sum of Rs. 20 lakhs were paid by the Complainant/Respondent No. 2 to Petitioner Nos. 1 and 2 towards part consideration for Plot No. 35, Rohini. It is stated that the balance amount of Rs. 22,05,000 was agreed to be paid at the time of the execution of the sale documents with respect to Plot No. 35, Rohini and handing over of the possession of the said plot. It is stated that parties had agreed to wait for execution of the lease deed by DDA in favour of Petitioner No. 1. It is stated that, however, at the request of Petitioner No. 1 an additional amount of Rs. 3 lakhs was transferred by RTGS on 09.11.2020 at their request.

5. It is stated that a registered lease deed was executed by DDA in favour of Petitioner No. 1 for Plot No. 35, Rohini on 05.11.2020.

6. It is stated that, thereafter, on 09.11.2020 Respondent No. 2 purchased the requisite stamp duty for getting an Agreement to Sale ('ATS') and General Power of Attorney ('GPA') to be executed by Petitioner No. 1 registered in its favour. It is stated that a meeting was scheduled between Petitioner No. 1 and Respondent No. 2 in the Office of Sh. Chiranjeev Sharma on 10.11.2020; however, Petitioner No. 1 and Petitioner No. 3 failed



to meet Respondent No. 2 on some pretext. It is stated that Respondent No. 2 also contacted Petitioner No. 3 on several occasions to complete the transaction by execution of registered documents, however, Petitioner No. 1 and Petitioner No. 3 failed to complete the sale.

7. It is stated that Respondent No. 2 had filed a civil suit bearing CS DJ 709/2022 before the District Judge-02 (North-West) Rohini Courts, Delhi ['Civil Court']. It is stated that Petitioner Nos. 1, 2 and 3 were defendants in the said civil suit and suit was filed after serving an advance copy on the Petitioner Nos. 1, 2 and 3. It is stated that summons were issued by Civil Court vide order dated on 20.08.2022 and returnable date was fixed on 03.11.2022 and the said summons were duly served.

8. It is stated that Petitioner Nos. 1 and 2/defendants to overreach the civil suit hatched a conspiracy by fabricating an Agreement to Sell dated 01.11.2022 ['ATS dated 01.11.2022'] purportedly executed by Petitioner Nos. 1 and 2 in favour of Petitioner No. 7, who is the sister-in-law of Petitioner No. 3. It is stated that the said ATS dated 01.11.2022 executed after service of the civil suit was clearly intended to defeat the rights of the Complainant/Respondent No. 2. It is stated that Clause 7 of the ATS dated 01.11.2022 falsely records that there is no dispute pending qua Plot No. 35, Rohini. It is stated that the said ATS dated 01.11.2022 recorded consideration amount of Rs. 23,20,000/-.

9. It is stated that Petitioner Nos. 1 and 2 have admittedly received Rs. 23 lakhs from Respondent No. 2, which is retained by them. The Petitioner Nos. 1 and 2 in conspiracy with Petitioner Nos. 3 and 7 have thus, colluded to defeat the rights of the Respondent No. 2 and induced him into parting with a substantial amount and after having received the said amount



have colluded to create documents so as to deprive the rights of Respondent No. 2 with respect to the property i.e., Plot No. 35, Rohini and the payment of Rs. 23 lakhs.

Version of the Petitioners/accused

10. In this petition for quashing, the Petitioners have set out their version of the events. It is stated that Petitioner No. 2 is the owner of a property bearing no. No. RZ-B-12/15, Khasra No.82/4/1, Mahabir Enclave, Village Palam, Delhi [hereinafter referred as 'property at Mahabir Enclave'] and with an intent to sell the property, Petitioner Nos. 1 and 2 contacted Petitioner No. 3 who is a property dealer by profession. It is stated that Petitioner No. 3 circulated the offer of sale in open market and in response thereto Sh. Chiranjeev Sharma alias Vicky Sharma contacted Petitioner No. 3 and expressed willingness to purchase the property at Mahabir Enclave. It is stated that Petitioner nos. 1 and 2 are aware that Sh. Chiranjeev Sharma alias Vicky Sharma is a property dealer by profession and he would also seek a prospective purchaser for the said property.

11. It is stated that on 16.12.2019, Petitioner Nos. 1 and 2 entered into an Agreement to Sell ['ATS dated 16.12.2019'] with Sh. Chiranjeev Sharma alias Vicky Sharma for the sale of property at Mahabir Enclave for a total sum of Rs. 35,80,000/-. It is stated that for this ATS, Sh. Chiranjeev Sharma alias Vicky Sharma paid Rs. 1 lakh in cash as earnest money to Petitioner No. 3 and Rs. 19 lakh by way of bank transfer to Petitioner Nos. 1 and 2. It is stated that this ATS is duly signed by Petitioner Nos. 1 and 2 and is witnessed by Petitioner No. 3. It is stated that the sale deed was to be executed within three (3) months i.e., on or before 15.03.2020.

12. It is stated that original of the said ATS is with Sh. Chiranjeev Sharma



alias Vicky Sharma. It is stated that the original was handed over by Petitioner No. 3 to Sh. Chiranjeev Sharma alias Vicky Sharma.

13. It is stated that Sh. Chiranjeev Sharma alias Vicky Sharma duly informed Petitioner No. 3 that the end-purchaser is Respondent No. 2 and this fact was duly communicated by Petitioner No. 3 to Petitioner No. 1.

14. It is stated that Petitioner Nos. 1 and 2, however, have never met Sh. Chiranjeev Sharma alias Vicky Sharma. It is stated that there has been no communication between Petitioner Nos. 1 and 2 and Sh. Chiranjeev Sharma alias Vicky Sharma either through telephone or through WhatsApp chat.

15. It is stated that Petitioner No. 3 called upon Sh. Chiranjeev Sharma alias Vicky Sharma to arrange the balance consideration on 04.03.2020 and have the sale documents executed in favour of Respondent No. 2. However, Sh. Chiranjeev Sharma alias Vicky Sharma and Respondent No. 2 were unable to pay the balance amount and thereafter, since the pandemic of Covid-19 hit the normal life, the transaction was kept in abeyance.

16. It is stated that after October, 2020 Sh. Chiranjeev Sharma alias Vicky Sharma on instructions of Respondent No. 2 instructed Petitioner Nos. 1 to 3 to complete the electricity, water and house tax formalities for the property at Mahabir Enclave and for this purpose a sum of Rs. 3 lakhs was transferred by Respondent No. 2 to the bank account of Petitioner No. 1. It is stated that the said formalities were thereafter, completed.

17. It is stated that Petitioner No. 1 thereafter, kept on waiting for receiving the balance consideration of Rs. 15,80,000/- so that the sale documents can be executed by Petitioner No. 1 in favour of Respondent No. 2; however, Respondent No. 2 did not come forward.

18. It is stated at paragraph no. 31 of the petition that in the meanwhile



Petitioner Nos. 1 and 2 became owners of Plot No. 35, Rohini by virtue of the lease deed dated 05.11.2020 executed by DDA in favour of the Petitioner Nos. 1 and 2. It is stated that Petitioner Nos. 1 and 2 were desirous of selling this Plot as well and therefore, contacted Petitioner No. 3.

19. It is stated that Petitioner No. 3 circulated the offer of sale for Plot No. 35, Rohini in open market and in response thereto, Petitioner No. 7 entered into an agreement for sale and purchase with Petitioner Nos. 1 and 2. It is stated that Petitioner Nos. 1 and 2 executed a registered ATS dated 01.11.2022 and GPA dated 01.12.2022 in favour of Petitioner No. 7. It is admitted that Petitioner No. 7 is a relative of Petitioner No. 3.

20. It is stated that initially Petitioner No. 3 communicated the offer of sale to Sh. Chiranjeev Sharma alias Vicky Sharma as well and upon learning of the said offer it appears that Respondent No. 2's intentions turned malafide and Respondent No. 2 created a forged and fabricated ATS dated 12.12.2019 with respect to Plot No. 35, Rohini. It is stated that the payments of Rs. 23 lakhs made to Petitioner Nos. 1 and 2 by Respondent no. 2 were for the property at Mahabir Enclave, however, it has been wrongly reflected in the said forged ATS dated 12.12.2019. It is stated that Respondent No. 2 in collusion with Sh. Chiranjeev Sharma alias Vicky Sharma has sought to substitute the ATS with respect to the property at Mahabir Enclave for the Plot No. 35, Rohini.

21. It is stated that ATS dated 12.12.2019 does not bear the signatures of Petitioner Nos. 1 and 2 or Petitioner No. 3 and in view of the said fact the civil suit for specific performance filed by Respondent No. 2 has been dismissed by the Civil Court vide order dated 24.08.2022.

22. It is stated that the purported ATS dated 12.12.2019 is fabricated by



Respondent No. 2 in collusion with Dr. Sarita Gupta as well as Sh. Chiranjeev Sharma alias Vicky Sharma and Sh. Kewal Krishan Sharma. It is stated that in fact, the police must carry out a forensic test of the ATS dated 12.12.2019 for verifying the age of the handwriting and signatures on the said document. It is stated that admittedly, Petitioner Nos. 1 and 2 have not signed the said ATS dated 12.12.2019.

23. It is stated that Respondent No. 2 is the owner of Plot No. 34, Block-C, Pocket-I, Sector-36, Rohini, Delhi which adjoins Plot No. 35, Rohini and it is the intention of Respondent No. 2 to grab this plot by relying upon the transaction entered between the parties which pertained to a distinct property i.e. property at Mahabir Enclave.

24. It is stated that Petitioner Nos. 1 and 2 have never met Respondent No. 2 or Dr. Sarita Gupta or Sh. Chiranjeev Sharma alias Vicky Sharma or Sh. Kewal Krishan Sharma personally or through telephone or through WhatsApp.

25. It is stated that in the month of December, 2019, Petitioner Nos. 1 and 2 were not even the owners of Plot No. 35, Rohini and, therefore, there could never have been any offer of sale for the said property by Petitioner Nos. 1 to 3 in favour of Respondent No. 2.

26. It is stated that Petitioners first learnt about the ATS dated 12.12.2019 when they received a copy of the summons of the civil suit. It is stated that Sh. Chiranjeev Sharma alias Vicky Sharma was not authorised to sign the ATS on behalf of the Petitioners and this fact has also been accepted by the Civil Court while dismissing the suit for specific performance.

Submissions of State on instructions of the IO

27. It is stated by the learned ASC that Petitioner Nos. 1 and 2 had



received intimation of allotment of Plot No. 35, Rohini from DDA and they were required to pay the premium amount to DDA for execution of the lease deed. He states that the sum of Rs. 19 lakhs paid by Respondent No. 2 on 20.12.2019 in the bank account of Petitioner Nos. 1 and 2 was immediately transferred to DDA on the next date.

28. It is stated that WhatsApp chats between Petitioner No. 3 and Sh. Chiranjeev Sharma alias Vicky Sharma show that the said parties clearly discussed sale of Plot No. 35, Rohini.

29. It is stated that the transfer of Rs. 3 lakhs by RTGS on 09.11.2020 by Respondent No. 2 in favour of Petitioner Nos. 1 and 2 is also directly linked with the sale deed executed by DDA in favour of Petitioner Nos. 1 and 2 on 05.11.2020.

Findings and Analysis

30. This Court has considered the submissions of the parties and perused the record.

31. The principles relating to exercise of jurisdiction under Section 482 of the Cr.P.C. to quash complaints and criminal proceedings have been elucidated set out by Supreme Court in **Indian Oil Corpn. v. NEPC India Ltd.**¹ The relevant paragraph of the said judgment which is apposite for deciding the controversy in the present proceedings reads as under: -

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions.....The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

¹ (2006) 6 SCC 736



For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) **A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.**

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. **As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.**

(‘Emphasis Supplied’)

32. In the facts noted above and upon perusal of the documents, more specifically, the registered lease deed dated 05.11.2020, it is apparent that Petitioner Nos. 1 and 2 received an allotment for Plot No. 35, Rohini from DDA in the year 2019. The payments to DDA for the allotment was made in December, 2019. The allotment letter stood issued by DDA in favour of the Petitioner Nos. 1 and 2. The lease deed is effective from 05.01.2020 though it was executed on 05.11.2020.

33. In these facts, the assertion of the Petitioners at paragraph 39 of the



petition that since they were not the owners of the Plot No. 35, Rohini in December, 2019 there could not have been any agreement or an offer of sale of this property to Respondent No. 2 is apparently incorrect and misleading.

34. The Petitioner Nos. 1 and 2 admit that offer to sell Plot No. 35, Rohini was circulated to general public by Petitioner No. 3 on their instructions and Petitioner No. 3 extended the offer to Sh. Chiranjeev Sharma alias Vicky Sharma.

35. Petitioner Nos. 1 and 2 admit that Respondent No. 2 is the owner/allottee of the adjoining Plot No. 34, Rohini. At the contemporaneous time Respondent no. 2 as well received allotment of Plot no. 34, Rohini from DDA. Thus, the interest of Respondent No. 2 in purchasing the adjoining Plot No. 35, Rohini would be plausible in normal course.

36. Petitioner Nos. 1 and 2 categorically admit receiving a sum of Rs. 20 lakhs from Respondent No. 2 in December, 2019. Learned ASC states that perusal of the bank statement of Petitioner Nos. 1 and 2 shows that it was this amount, which was used by Petitioner Nos. 1 and 2 to pay the premium amount due and payable to DDA for completion of allotment formalities and execution of lease deed for Plot No. 35, Rohini.

37. Petitioner Nos. 1 and 2 during the course of arguments admit advance service of the paper-book in civil suit for specific performance filed by Respondent No. 2 in August, 2022 and service of summons. The act of Petitioner Nos. 1 and 2 in executing an ATS and GPA for Plot No. 35, Rohini in favour of the relative of Petitioner No. 3 for a sale consideration of Rs. 23,20,000/- as against Respondent No. 2's offer to purchase the Plot No. 35, Rohini for a sum of Rs. 42,05,000/- shows that the intent of Petitioner Nos. 1, 2, 3 and 7 was to overreach the suit proceedings. The transaction



between Petitioner Nos. 1 and 2 on one hand with Petitioner No. 7 prima facie does not appear to be an arm's length transaction. Not only, is Petitioner No. 7 a related party, moreover, it is opposed to common prudence that Petitioner Nos. 1 and 2 were unwilling to sell the Plot No. 35, Rohini to Respondent No. 2 who was willing to pay a higher price and instead preferred to sell the said Plot to Petitioner No. 7 at half the price.

38. The alternate theory propounded by Petitioner Nos. 1, 2 and 3 to explain receiving payments from Respondent No. 2, that the Agreement to Sell between parties was with respect to property at Mahabir Enclave has not been substantiated. The Petitioners refer to an ATS dated 16.12.2019 alleged to have been executed between Petitioner Nos. 1 and 2 with Sh. Chiranjeev Sharma alias Vicky Sharma for the said property. However, Petitioners admit that they do not have the original of the said ATS and rely upon its photocopy.

39. The Petitioner Nos. 1 to 3 admit that no legal notice calling upon Respondent No. 2 to perform the alleged ATS with respect to property at Mahabir Enclave has been issued till date. The Petitioner Nos. 1 to 3 are unable to explain their conduct in holding on to the amount of Rs. 23 lakhs received from Respondent No. 2 in 2019-20, without seeking conclusion of the sale qua the property at Mahabir Enclave.

40. Thus, in the absence of the original of the purported ATS dated 16.12.2019 and complete inaction of Petitioner Nos. 1 to 3 in seeking specific performance or rescission of the purported ATS qua property at Mahabir Enclave, prima facie fails to persuade the Court that the said ATS existed.

41. On an overall appreciation of the facts placed on record, the version



of the Respondent No. 2 that there was an agreement between Petitioner Nos. 1 and 2 and Respondent No. 2 for sale and purchase of Plot No. 35, Rohini appears to be plausible. Petitioner Nos. 1 and 2 have showed in the writ petition that a practice has been followed and approved by them for offering both their properties i.e., Mahabir Enclave and Rohini to property dealers for selling in the market and permitting the property dealers to negotiate with the third-party buyers. Petitioner Nos. 1 and 2 have pleaded executing Agreement to Sell with property dealers instead of the end-purchaser.

42. Petitioner Nos. 1 and 2 on their own showing have accepted bank transfers of Rs. 22 lakhs and cash of Rs. 1 lakh from Respondent No. 2 towards agreement for sale of property, in the absence of any written agreement. The purported ATS dated 16.12.2019 relied upon is not with Respondent No. 2. Thus, on Petitioner's own showing they had an oral agreement to sell with Respondent No. 2. The issue whether this agreement was for sale of property at Mahabir Enclave or Plot No. 35, Rohini is disputed as the agreement inter-se between Petitioner Nos. 1 and 2 and Respondent is oral.

43. The averments in the writ petition show that the Petitioner Nos. 1 and 2 by their own conduct have, through the agency of Petitioner No. 3, made offers to general public for sale of their immovable property at Mahabir Enclave and subject Plot No. 35, Rohini without entering into any written agreement with the prospective purchaser.

44. The fact that the Civil Court has dismissed the suit for specific performance qua Plot No. 35, Rohini on the parameters of the absence of a written contract of sale between Petitioner Nos. 1 and 2 with Respondent



No. 2, would have no bearing on this FIR as Petitioners have admittedly failed to return the amount of Rs. 23 lakhs received by them from Respondent No. 2. The Petitioners have failed to give any reasonable explanation for withholding the said amount of Rs. 23 lakhs despite Respondent No. 2 having issued a legal notice, filing a suit and this complaint. The Respondent No. 2 has already availed his remedy of appeal against the said judgment and the fact whether Respondent No. 2 is entitled to relief of specific performance or not will be decided in the said appeal.

45. The action of Petitioner Nos. 1 and 2 in holding onto the amount of Rs. 23 lakhs since 2019-2020 without offering to return it when legal notice was served on them by Respondent No. 2 gives credence to the allegations made in the FIR with respect to Petitioner Nos. 1 and 2 having colluded with Petitioner No. 3 into inducing Respondent No. 2 to advance the said monies without any intention to transfer the property. The action of Petitioner No. 7 in executing an ATS and GPA with Petitioner Nos. 1 and 2 after the issuance of legal notice and filing of the civil suit also lends credence to the allegations of collusion since Petitioner No. 3 and Petitioner No. 7 are related. And, there is no dispute that Petitioner No. 3 is the central character in this transaction.

46. The Petitioner Nos. 1 and 2 at the hearing dated 16.01.2025 offered to deposit the sum of Rs. 23 lakhs in Court and has today handed over a copy of the demand draft evidencing the said deposit. However, during the course of hearing learned counsel for the Petitioner Nos. 1 and 2 stated that if the Court is not inclined to quash the FIR, the said amount ought to be returned to the Petitioner Nos. 1 and 2 and not be released to the Respondent No. 2. In the considered opinion of this Court, this submission of the learned



counsel for the Petitioners further strengthens the plea of the Respondent No. 2 that Petitioner No. 1, 2 and 3 have wrongfully induced him to part with the money. The allegations in the FIR clearly disclose an offence of cheating with a dishonest intension. However, this Court is not concerned with the proof or ultimate decision.

47. In an ordinary transaction for property, the seller should have been ready and willing to return the advance consideration if the sale could not be completed. In this case, the transaction as per the Petitioners commenced in 2019 and has remained unperformed till date. Petitioners have neither taken steps to refund the amount, rescind the agreement or perform the agreement. And even today, seek to retain the said amount. The Petitioners are unwilling to return the amount of Rs. 23 lakhs to the Respondent No. 2. In these facts, the contention of the Petitioner that Respondent No. 2 has a remedy to recover this amount by filing a civil suit and no criminal offence is made out is without any merit.

48. Thus, on this conspectus of the issue, this Court is not persuaded to accept the submissions of the Petitioner that the subject FIR is liable to be quashed. Moreover, no exceptional or rare circumstances have been shown by Petitioner Nos. 1, 2 and 3, which would require this Court to interfere with the investigation proceedings at this stage.

49. It would also be relevant to refer the judgment of Supreme Court passed in **Rakhi Mishra vs State of Bihar and Others**² wherein it has been held that the High Court can use its power under Section 482 of Cr.P.C. only in exceptional circumstances when a prima facie case is not made out against the accused. Furthermore, the Supreme Court in the case of **Tilly**

² (2017) 16 SCC 772



Gifford v. Michael Floyd Eshwar and Anr.³ has observed as under:

“3. A perusal of the order of the High Court released on 21-5-2015 would indicate that the High Court has gone far beyond the contours of its power and jurisdiction under Section 482CrPC to quash a criminal proceeding, the extent of such jurisdiction having been dealt with by this Court in numerous pronouncements over the last half century. **Time and again, it has been emphasised by this Court that the power under Section 482CrPC would not permit the High Court to go into disputed questions of fact or to appreciate the defence of the accused. The power to interdict a criminal proceeding at the stage of investigation is even more rare. Broadly speaking, a criminal investigation, unless tainted by clear mala fides, should not be foreclosed by a court of law.**”

(‘Emphasis Supplied’)

50. In the present case as noted above, the admitted facts demonstrate that Petitioner Nos. 1, 2 and 3 after having persuaded Respondent No. 2 to transfer a substantial amount of Rs. 23 lakhs have failed to return the same or offer any reasonable explanation for retaining the said amount. The Petitioners have failed to show that the allegations levelled by the Respondent No. 2 are improbable or absurd or the allegations do not constitute commission of an offence.

51. Petitioner Nos. 4, 5 and 6 do not find any mention in the FIR and therefore, this Court is unable to appreciate the basis for the said Petitioners filing the present petition for quashing.

52. The petition is accordingly, dismissed and at the request of the Petitioners the amount of Rs. 23 lakhs deposited with the registry of this Court is directed to be returned to the Petitioners.

³ (2018) 11 SCC 205



53. It is however, clarified that the observations made by this Court are only for the purpose of deciding the present petition and shall have no bearing on the merits of the case during the trial.

54. Pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

JANUARY 24, 2025/msh/ms